



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

September 30, 2019

Austin Evers
American Oversight
1030 15th Street, NW, Suite B255
Washington, DC 20005
foia@americanoversight.org

Re: DOJ-2017-005437 (ASG)
D.D.C. No. 18-cv-00355
TAZ:BRB

Dear Austin Evers:

This is a supplemental response to your Freedom of Information Act (FOIA) request dated July 18, 2017, and received in this Office on July 19, 2017. Your request sought communications and calendar entries for Principal Deputy Associate Attorney General Jesse Panuccio, pertaining to certain named litigations, dating since January 20, 2017. This response is made on behalf of the Office of the Associate Attorney General (OASG).

By letters dated July 18, 2018, December 18, 2018, and March 1, 2019, we provided you with two interim responses and a final response to your request. At this time, I have re-processed the 104 pages which were previously withheld in full pursuant to court-imposed non-disclosure requirements. Of these 104 pages, I have determined 45 pages may be released in part with excisions made pursuant to Exemptions 4 and 6 of the FOIA. Additionally, 59 pages should be withheld in full pursuant to Exemption 4 of the FOIA. Exemption 4 pertains to commercial or financial information obtained from a person that is privileged or confidential and Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2012 & Supp. IV 2016). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have questions regarding this response, please contact Assistant United States Attorney Denise Clark at 202-252-6621.

Sincerely,



Timothy Ziese
Senior Reviewing Attorney

Enclosure

Bylund, Jeremy (OASG)

From: Bylund, Jeremy (OASG)
Sent: Monday, July 31, 2017 8:56 AM
To: Gregory S. Baylor
Cc: Panuccio, Jesse (OASG)
Subject: Confidential Settlement Communication
Attachments: Confidential - DOJ Draft Settlement Agreement 7.31.17 Clean.docx

Dear Greg,

I have attached a draft settlement proposal. We would like to discuss settlement along these lines for your clients as well. Please let me know if you have a few minutes to talk.

Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123

Bylund, Jeremy (OASG)

From: Bylund, Jeremy (OASG)
Sent: Monday, July 31, 2017 8:50 AM
To: Mark
Cc: Panuccio, Jesse (OASG)
Subject: Confidential Settlement Communication
Attachments: Confidential - DOJ Draft Settlement Agreement 7.31.17 Clean.docx

Dear Mark,

As we discussed on Friday, here is our latest draft for you to make your changes.

Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123

Bylund, Jeremy (OASG)

From: Bylund, Jeremy (OASG)
Sent: Monday, July 31, 2017 8:47 AM
To: Anthony J Dick; lfdejulius@jonesday.com
Cc: David T Raimer; Panuccio, Jesse (OASG); Matthew A. Kairis; John D. Goetz; Paul M. Pohl
Subject: RE: *Confidential: Re: Confidential Settlement Discussion
Attachments: Confidential - DOJ Draft Settlement Agreement 7.31.17 Clean.docx; Compare Documents.docx

Dear Lee and Anthony,

Attached, please find our latest draft with changes after our conversation last Thursday. The pertinent changes are to (b) (4) [REDACTED] We would like to discuss, is there a time this afternoon we could talk?

Best,

Jeremy

From: Anthony J Dick [mailto:ajdick@jonesday.com]
Sent: Wednesday, July 26, 2017 6:36 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Cc: David T Raimer <dtraimer@jonesday.com>; Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; lfdejulius@jonesday.com; Matthew A. Kairis <makairis@JonesDay.com>; John D. Goetz <jdgoetz@JonesDay.com>; Paul M. Pohl <ppmpohl@JonesDay.com>
Subject: *Confidential: Re: Confidential Settlement Discussion

Jeremy,

As requested in your call this evening, attached please find a counterproposal from Jones Day with changes from your last proposal reflected in redline. Let us know if there is a good time to talk tomorrow.

All best,

Anthony

Anthony Dick [\(bio\)](#)

Associate

JONES DAY® - One Firm Worldwide™

51 Louisiana Ave NW
Washington DC 20001-2113
Office +1.202.879.7679

From: "Bylund, Jeremy (OASG)" <Jeremy.Bylund@usdoj.gov>
To: "Matthew A. Kairis" <makairis@JonesDay.com>
Cc: David T Raimer <dtraimer@jonesday.com>, Anthony J Dick <ajdick@jonesday.com>, "lfdejulius@jonesday.com"
<lfdejulius@jonesday.com>, "Panuccio, Jesse (OASG)" <Jesse.Panuccio@usdoj.gov>
Date: 07/13/2017 08:58 PM
Subject: Confidential Settlement Discussion

Dear Matt,

Attached, please find the proposed settlement agreement referenced in your call with Jesse today.

Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123
[attachment "Confidential - DOJ Draft Settlement Agreement 7.13.17.pdf" deleted by Anthony J Dick/JonesDay]

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This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====

From: David T Raimer <dtraimer@jonesday.com>
To: Bylund, Jeremy (OASG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=3a2b34ebc3914b8596f50b9a3f03
a503-bylund, jer>
Cc: Anthony J Dick <ajdick@jonesday.com>;
John D. Goetz <jdgoetz@jonesday.com>; Panuccio, Jesse (OASG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=a7d5c1682ee14f0bb434dd838446
980d-panuccio, j>; lfdejulius@jonesday.com
<lfdejulius@jonesday.com>; Matthew A. Kairis
<makairis@jonesday.com>; Paul M. Pohl <pmpohl@jonesday.com>
Bcc:
Subject: *Confidential: RE: Re: Confidential Settlement Discussion
Date: Tue Aug 01 2017 19:23:34 EDT
Attachments: Confidential - Jones Day Counterproposal - 8.1.2017.pdf
Confidential - Redline - 7.31.2017 and 8.1.2017 proposals.pdf

Jeremy:

Please find attached a revised draft of the proposed settlement agreement, which we modified pursuant to our call yesterday afternoon. To address your concerns about (b) (4) [REDACTED] We are of course happy to discuss further at your convenience.

Best,
David

David T. Raimer
Associate
JONES DAY® - One Firm WorldwideSM
51 Louisiana Ave., N.W.
Washington, D.C. 20001-2113
Office +1.202.879.3890
Fax +1.202.626.1700
dtraimer@jonesday.com

From: "Bylund, Jeremy (OASG)" <Jeremy.Bylund@usdoj.gov>
To: Anthony J Dick <ajdick@jonesday.com>, "lfdejulius@jonesday.com" <lfdejulius@jonesday.com>
Cc: David T Raimer <dtraimer@jonesday.com>, "Panuccio, Jesse (OASG)" <Jesse.Panuccio@usdoj.gov>, "Matthew A. Kairis" <makairis@JonesDay.com>, "John D. Goetz" <jdgoetz@JonesDay.com>, "Paul M. Pohl" <pmpohl@JonesDay.com>
Date: 07/31/2017 08:48 AM
Subject: RE: *Confidential: Re: Confidential Settlement Discussion

Dear Lee and Anthony,

Attached, please find our latest draft with changes after our conversation last Thursday. The pertinent changes are to (b) (4) [REDACTED]. We would like to discuss, is there a time this afternoon we could talk?

Best,

Jeremy

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Sent: Wednesday, July 26, 2017 6:36 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Cc: David T Raimer <dtraimer@jonesday.com>; Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; lfdejulius@jonesday.com; Matthew A. Kairis <makairis@JonesDay.com>; John D. Goetz <jdgoetz@JonesDay.com>; Paul M. Pohl <pmpohl@JonesDay.com>
Subject: *Confidential: Re: Confidential Settlement Discussion

Jeremy,

As requested in your call this evening, attached please find a counterproposal from Jones Day with changes from your last proposal reflected in redline. Let us know if there is a good time to talk tomorrow.

All best,

Anthony

Anthony Dick (bio)
Associate
JONES DAY® - One Firm WorldwideSM
51 Louisiana Ave NW
Washington DC 20001-2113
Office +1.202.879.7679

From: "Bylund, Jeremy (OASG)" <Jeremy.Bylund@usdoj.gov>
To: "Matthew A. Kairis" <makairis@JonesDay.com>
Cc: David T Raimer <dtraimer@jonesday.com>, Anthony J Dick <ajdick@jonesday.com>, lfdejulius@jonesday.com <lfdejulius@jonesday.com>, "Panuccio, Jesse (OASG)" <Jesse.Panuccio@usdoj.gov>
Date: 07/13/2017 08:58 PM
Subject: Confidential Settlement Discussion

Dear Matt,

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Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123
[attachment "Confidential - DOJ Draft Settlement Agreement 7.13.17.pdf" deleted by Anthony J Dick/JonesDay]

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This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.
===== [attachment "Confidential - DOJ Draft Settlement Agreement 7.31.17 Clean.docx" deleted by David T Raimer/JonesDay] [attachment "Compare Documents.docx" deleted by David T Raimer/JonesDay]

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.
=====

From: Mark L Rienzi <rienzi@law.edu>
To: Panuccio, Jesse (OASG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=a7d5c1682ee14f0bb434dd838446
980d-panuccio, j>; Bylund, Jeremy (OASG)
</o=exchangelabs/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=3a2b34ebc3914b8596f50b9a3f03
a503-bylund, jer>; Eric Rassbach <erassbach@becketlaw.org>;
lwindham@becketfund.org <lwindham@becketfund.org>
Cc:
Bcc:
Subject: draft agreement
Date: Sat Jul 15 2017 22:58:59 EDT
Attachments: Concessions.docx

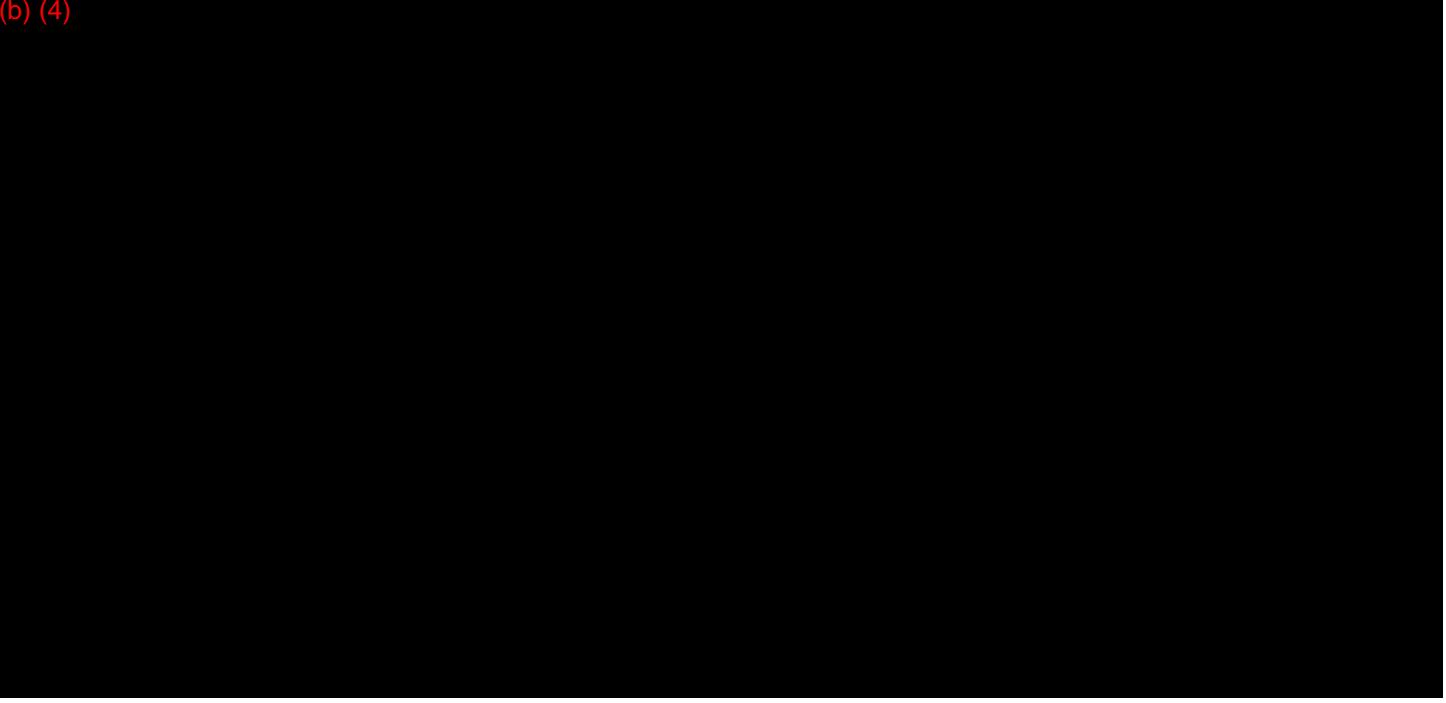
Jeremy and Jesse--Thanks again for the call. As I said to Jeremy yesterday afternoon, I don't think we're quite at the point where redlining the draft makes sense. But here is a summary of the points I made on the call yesterday.

Of course, this is intended as a confidential settlement communication. This is just a summary of my initial reactions. And I have not yet run your draft past my clients. With those caveats:

(b) (4)



(b) (4)



Jeremy mentioned the possibility of a call on Monday. Please let me know when you'd be able to do that. My schedule is harder later in the week, so I'd like to be sure we connect on Monday.

Thanks very much,

Mark

Gregory S. Baylor

From: Gregory S. Baylor
Sent: Wednesday, August 16, 2017 5:12 PM
To: Bylund, Jeremy (OASG)
Cc: Panuccio, Jesse (OASG)
Subject: RE: Confidential Settlement Communication

Hi, Jeremy. I just wanted to touch base and see if you had reached a conclusion on this question.

Thanks.

Greg

From: Gregory S. Baylor
Sent: Friday, August 11, 2017 12:07 PM
To: 'Bylund, Jeremy (OASG)' <Jeremy.Bylund@usdoj.gov>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Subject: RE: Confidential Settlement Communication

Thanks.

Greg

From: Bylund, Jeremy (OASG) [mailto:Jeremy.Bylund@usdoj.gov]
Sent: Friday, August 11, 2017 12:03 PM
To: Gregory S. Baylor <gbaylor@adfl egal.org>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Subject: RE: Confidential Settlement Communication

Dear Greg,

Thank you for your email. We are discussing internally and will get back to you.

Best Regards,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-9500

From: Gregory S. Baylor [mailto:gbaylor@adfl egal.org]
Sent: Wednesday, August 9, 2017 5:23 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>

Subject: RE: Confidential Settlement Communication

I had an initial question for you: (b) (4)

(b) (4)

Thanks.

Greg



Gregory S. Baylor
Senior Counsel, Director of Center for Religious Schools
202-393-8690 (Office)
(b) (6) [REDACTED] Direct Dial)
202-347-3622 (Fax)
gbaylor@ADFlegal.org
ADFlegal.org
Not Licensed in DC
Practice Limited to Federal Court

From: Bylund, Jeremy (OASG) [<mailto:Jeremy.Bylund@usdoj.gov>]
Sent: Monday, July 31, 2017 8:56 AM
To: Gregory S. Baylor <gbaylor@adflegal.org>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Subject: Confidential Settlement Communication

Dear Greg,

I have attached a draft settlement proposal. We would like to discuss settlement along these lines for your clients as well. Please let me know if you have a few minutes to talk.

Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123

This e-mail message from Alliance Defending Freedom and any accompanying documents or embedded messages is intended for the named recipients only. Because Alliance Defending Freedom is a legal entity engaged in the practice of law, this communication contains information, which may include metadata, that is confidential, privileged, attorney work product, or otherwise protected from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. If you have received this message in error, please immediately notify the sender and permanently delete the message. PRIVILEGED AND CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION/ATTORNEY WORK PRODUCT.

Mark L Rienzi

From: Mark L Rienzi
Sent: Wednesday, August 16, 2017 2:43 PM
To: Bylund, Jeremy (OASG); Panuccio, Jesse (OASG)
Cc: Eric Rassbach; lwindham@becketfund.org
Subject: Re: Term Sheet

Jesse and Jeremy--It has been more than two weeks since we gave you all a draft term sheet. When can we expect a response? Also, re the draft you have been exchanging with Jones Day, can you send us your draft of (b) (4) Thanks very much,

Mark

On Tue, Aug 1, 2017 at 11:13 PM, Mark L Rienzi <rienzi@law.edu> wrote:

Jesse and Jeremy--Thanks very much for your draft agreement of yesterday. While we are not there yet, I do think we are making some progress toward agreement. And I appreciate your taking the time on Friday to talk us through your concerns, (b) (4)

As we've discussed, we want to leave the mechanics of getting an agreement fully executed by all of the various plaintiffs for another day, (b) (4)

So rather than edit the agreement I am attaching a draft term sheet for discussion purposes.

The key provisions build on your draft. As with our prior discussions, I would still need to seek client approval to sign this, and I am not purporting to speak for anyone else's clients. (b) (4)

(b) (4)

We'd be happy to have a phone call with you to discuss our thinking on the draft and get your reaction to it. Would you all be available for a call sometime tomorrow?

Thanks very much and best regards,

Mark

Gregory S. Baylor

From: Gregory S. Baylor
Sent: Monday, August 7, 2017 12:09 PM
To: Bylund, Jeremy (OASG)
Cc: Panuccio, Jesse (OASG)
Subject: RE: Confidential Settlement Communication

I apologize for the delay in responding. We are examining the offer and will circle back to you as soon as possible.

Thanks,

Greg



Gregory S. Baylor
Senior Counsel, Director of Center for Religious Schools
202-393-8690 (Office)
(b) (6) Direct Dial
202-347-3622 (Fax)
gbaylor@ADFlegal.org
ADFlegal.org
Not Licensed in DC
Practice Limited to Federal Court

From: Bylund, Jeremy (OASG) [mailto:Jeremy.Bylund@usdoj.gov]
Sent: Monday, July 31, 2017 8:56 AM
To: Gregory S. Baylor <gbaylor@adflegal.org>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Subject: Confidential Settlement Communication

Dear Greg,

I have attached a draft settlement proposal. We would like to discuss settlement along these lines for your clients as well. Please let me know if you have a few minutes to talk.

Best,

Jeremy M. Bylund
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-0123

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Panuccio, Jesse (OASG)

Subject: Call re: Term Sheet
Location: Dial info: (b) (6) Code (b) (6)

Start: Friday, August 4, 2017 11:30 AM
End: Friday, August 4, 2017 12:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Panuccio, Jesse (OASG)
Required Attendees: rienzi@cua.edu; erassbach@becketlaw.org; lwindham@becketfund.org; Bylund, Jeremy (OASG)
Optional Attendees: Lori Windham

Mark L Rienzi

From: Mark L Rienzi
Sent: Friday, August 4, 2017 6:51 AM
To: Panuccio, Jesse (OASG)
Cc: Bylund, Jeremy (OASG); Eric Rassbach; lwindham@becketfund.org
Subject: Re: Term Sheet

Great--Let us know where to call. Thanks very much,

Mark

On Thu, Aug 3, 2017 at 9:16 PM, Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov> wrote:
Works here

On Aug 3, 2017, at 8:29 PM, Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov> wrote:

Works for me

Sent from my iPhone

On Aug 3, 2017, at 7:55 PM, Mark L Rienzi <rienzi@cua.edu> wrote:

Still finalizing details on our end, but tentatively 11:30 looks good. Would that work for you?

Sent from my iPhone

On Aug 3, 2017, at 5:07 PM, Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov> wrote:

Dear Mark,

Sorry for the delay in response. We have had a lot of balls on the air this week. Do you have time for a call tomorrow?

Thanks,

Jeremy

On Aug 1, 2017, at 11:15 PM, Mark L Rienzi <rienzi@law.edu> wrote:

Jesse and Jeremy--Thanks very much for your draft agreement of yesterday. While we are not there yet, I do think we are making some progress toward agreement. And I appreciate your taking the time on Friday to talk us through your concerns, (b) (4) [REDACTED]

(b) (4) [REDACTED]

As we've discussed, we want to leave the mechanics of getting an agreement fully executed by all of the various plaintiffs for another day, (b) (4)

(b) (4) So rather than edit the agreement I am attaching a draft term sheet for discussion purposes.

The key provisions build on your draft. As with our prior discussions, I would still need to seek client approval to sign this, and I am not purporting to speak for anyone else's clients. (b) (4)

(b) (4)

We'd be happy to have a phone call with you to discuss our thinking on the draft and get your reaction to it. Would you all be available for a call sometime tomorrow?

Thanks very much and best regards,

Mark

<Term Sheet 8.1.2017.pdf>

Mark L Rienzi

From: Mark L Rienzi
Sent: Tuesday, August 1, 2017 11:13 PM
To: Bylund, Jeremy (OASG); Panuccio, Jesse (OASG)
Cc: Eric Rassbach; lwindham@becketfund.org
Subject: Term Sheet
Attachments: Term Sheet 8.1.2017.pdf

Jesse and Jeremy--Thanks very much for your draft agreement of yesterday. While we are not there yet, I do think we are making some progress toward agreement. And I appreciate your taking the time on Friday to talk us through your concerns, (b) (4)

As we've discussed, we want to leave the mechanics of getting an agreement fully executed by all of the various plaintiffs for another day, (b) (4). So rather than edit the agreement I am attaching a draft term sheet for discussion purposes.

The key provisions build on your draft. As with our prior discussions, I would still need to seek client approval to sign this, and I am not purporting to speak for anyone else's clients. (b) (4)

(b) (4)

We'd be happy to have a phone call with you to discuss our thinking on the draft and get your reaction to it. Would you all be available for a call sometime tomorrow?

Thanks very much and best regards,

Mark

Mark L Rienzi

From: Mark L Rienzi
Sent: Friday, July 28, 2017 10:58 AM
To: Panuccio, Jesse (OASG)
Cc: lwindham@becketfund.org; Eric Rassbach; Bylund, Jeremy (OASG)
Subject: Re: Checking in

Got it--thanks very much and talk to you then.

Mark

On Fri, Jul 28, 2017 at 10:20 AM, Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov> wrote:

We will set up a call-in number for 12:15.

From: Mark L Rienzi [mailto:rienzi@law.edu]
Sent: Thursday, July 27, 2017 5:02 PM
To: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; lwindham@becketfund.org; Eric Rassbach <erassbach@becketlaw.org>
Cc: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Subject: Re: Checking in

Great--we'd be happy to talk tomorrow at 12:15 if that works. The Jones Day draft was definitely just from them and did not have our input. They are not negotiating on behalf of our clients, and we are not negotiating on behalf of theirs, or on behalf of any other contraceptive mandate plaintiffs, for that matter.

Let me know how best to connect with you tomorrow. Thanks very much,

Mark

On Thu, Jul 27, 2017 at 4:23 PM, Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov> wrote:

Mark,

We are happy to chat. How about tomorrow sometime between 11:15am and 1pm? At the end of the

call last week, our impression was that Jones Day stated they would be sending back a redline that would reflect their input and your team's input, and then we would set up another call with everyone. If that's not the case, that's fine and we can negotiate separately—but it would be helpful to get some clarity on this point.

Thanks,

Jesse

From: Bylund, Jeremy (OASG)
Sent: Thursday, July 27, 2017 4:16 PM
To: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Cc: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Subject: Fwd: Checking in

Sent from my iPhone

Begin forwarded message:

From: Mark L Rienzi <rienzi@cua.edu>
Date: July 27, 2017 at 3:39:41 PM EDT
To: Jeremy Bylund <jeremy.bylund@usdoj.gov>
Subject: Checking in

Jeremy--I just wanted to touch base and see where things stand. I know you all have been talking with Jones Day, but they do not represent our clients. It will be faster getting this resolved if you are also talking directly with us.

As to the details, I was obviously out of the discussions last week, but one issue I don't think your draft addressed was (b) (4)

(b) (4)

Thanks very much,

Mark

Sent from my iPhone

Gregory S. Baylor

From: Gregory S. Baylor
Sent: Sunday, July 23, 2017 8:50 AM
To: Panuccio, Jesse (OASG)
Subject: RE: Email introduction

I am (b) (6) this coming week but could connect as necessary.

From: Panuccio, Jesse (OASG) [mailto:Jesse.Panuccio@usdoj.gov]
Sent: Friday, July 21, 2017 12:02 PM
To: Gregory S. Baylor <gbaylor@adflegal.org>; Eric Rassbach <erassbach@becketlaw.org>
Cc: Mark Rienzi <mrienzi@becketlaw.org>; Lori Windham <lwindham@becketlaw.org>; Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov>
Subject: RE: Email introduction

Eric—thanks for the connection.

Greg—likewise. I am travelling this afternoon, but could set up time to chat on Monday if you'd like.

All best,

Jesse

From: Gregory S. Baylor [mailto:gbaylor@adflegal.org]
Sent: Friday, July 21, 2017 10:52 AM
To: Eric Rassbach <erassbach@becketlaw.org>; Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Cc: Mark Rienzi <mrienzi@becketlaw.org>; Lori Windham <lwindham@becketlaw.org>
Subject: RE: Email introduction

Thanks, Eric, for connecting me to Jesse.

Jesse, I would be delighted to begin a dialogue with you.

Greg



Gregory S. Baylor
Senior Counsel, Director of Center for Religious Schools
202-393-8690 (Office)
(b) (6) Direct Dial)
202-347-3622 (Fax)
gbaylor@ADFlegal.org
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Not Licensed in DC
Practice Limited to Federal Court

From: Eric Rassbach [mailto:erassbach@becketlaw.org]
Sent: Thursday, July 20, 2017 7:14 PM
To: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Cc: Gregory S. Baylor <gbaylor@adflegal.org>; Mark Rienzi <mrienzi@becketlaw.org>; Lori Windham

<lwindham@becketlaw.org>

Subject: Email introduction

Jesse --

You mentioned on the call today that you have had no contact at all with ADF with regard to resolving the contraceptive mandate cases. As we have mentioned before, we think it very important to include ADF in these discussions, not least because they represent a number of different plaintiffs around the country who have brought suit against the illegal contraceptive mandate. Therefore I wanted to introduce you over email to Greg Baylor, who is the lead interlocutor at ADF on these issues. I think it would make sense for you two to make contact sometime in the near future.

Best regards,

Eric

Eric Rassbach

Deputy General Counsel

Becket — Religious Liberty for All
1200 New Hampshire Ave. NW, Suite 700
Washington, DC 20036

(b) (6) | @ericrassbach

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Eric Rassbach

From: Eric Rassbach
Sent: Thursday, July 20, 2017 3:45 PM
To: Panuccio, Jesse (OASG); Lori Windham; Mark
Cc: Bylund, Jeremy (OASG)
Subject: Re: draft agreement

Jesse --

I hear you, but I don't think I am speculating at all. Indeed, as you've told us before, you have to get clearance for each position you take in this negotiation from your superiors (i.e. Ms. Brand and the Attorney General), which is part of why it takes several days for you to present a response in each round of the negotiation. I think everyone understands that your superiors are the Senate-confirmed government officials who are politically responsible for the outcome of this negotiation, which is why you have to get their authorization. I thought it might speed up the process to have the AAG speaking with us directly but am obviously in no position to insist!

Thanks,

Eric

From: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Sent: Thursday, July 20, 2017 2:49 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Bylund, Jeremy (OASG)
Subject: RE: draft agreement

Eric,

The Associate Attorney General will not be on the call. Jeremy and I will be on the call and will represent the position of the Department of Justice. I would encourage you to restrict your understanding about the Department's positions to the representations we make, and to avoid speculation, rumor, or personal remarks.

Thank you,

Jesse Panuccio
Principal Deputy Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
202-514-9500 (o)

From: Eric Rassbach [mailto:erassbach@becketlaw.org]
Sent: Thursday, July 20, 2017 2:05 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Lori Windham <lwindham@becketlaw.org>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
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Super. We look forward to seeing it.

Also, is Ms. Brand going to participate in the call? (b) (4)

(b) (4)

Thanks,

Eric

From: Bylund, Jeremy (OASG) <jeremy.Bylund@usdoj.gov>
Sent: Thursday, July 20, 2017 1:47 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Panuccio, Jesse (OASG)
Subject: RE: draft agreement

I will have it to you shortly.

From: Eric Rassbach [mailto:erassbach@becketlaw.org]
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To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Lori Windham <lwindham@becketlaw.org>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Subject: Re: draft agreement

Jeremy --

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Subject: RE: draft agreement

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From: Lori Windham [<mailto:lwindham@becketlaw.org>]
Sent: Thursday, July 20, 2017 10:08 AM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>
Subject: RE: draft agreement

Jeremy,

Eric and I have some time for a call after 2 pm.

Best,
Lori

Lori Windham
Senior Counsel
Becket — Religious Liberty for All
1200 New Hampshire Ave. NW, Suite 700
Washington, DC 20036
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From: Bylund, Jeremy (OASG) [<mailto:Jeremy.Bylund@usdoj.gov>]
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To: Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>; Lori Windham <lwindham@becketlaw.org>
Subject: RE: draft agreement

Dear Mark, Eric, and Lori,

We are hoping to have a draft to pass back to the group today. I know Mark may be out of pocket today, but are other folks available for a call this afternoon?

Thanks,

Jeremy

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Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>;

lwindham@becketfund.org

Subject: Re: draft agreement

Jesse and Jeremy--I'm writing to follow up to see where you all are on our list of items on the last draft that need to be changed. As we discussed on Friday, our view is that the latest draft agreement (b) (4)

(b) (4)

Also, Erin Murphy let us know you called today. Erin certainly still represents our Supreme Court clients in these cases. But as a practical matter, it will be better and faster if you communicate directly with me or someone else at Becket to discuss settlement. The discussions with clients, as well as the representation of the many entities that are in the lower courts, are all happening with us at this stage. Going directly to us will save time in wrapping this up.

I will be difficult to reach tomorrow, but you can reach Eric Rassbach at (b) (6) or Lori Windham at (b) (6)
(b) (6)

Thanks very much,

Mark

On Mon, Jul 17, 2017 at 3:37 PM, Mark L Rienzi <rienzi@law.edu> wrote:

Jeremy--I think the best thing to do then is for you all to send over a revised draft that addresses the issues we've flagged. We got the Tenth Circuit to give us an extra week, and they seem to be holding off in the other cases waiting on our report. So I don't expect us to be able (or willing) to kick the can down the road further. Right now, we're still too far apart for that update to the court to be positive. So I would rather keep things moving forward with a new draft than wait for a time when our schedules match.

(b) (4)

Thanks very much,

Mark

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Dear Mark,

Given travel schedules the call will not be today. What are other options for you?

Best,

Jeremy

From: Mark L Rienzi [mailto:rienzi@law.edu]

Sent: Saturday, July 15, 2017 10:59 PM

To: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>; lwindham@becketfund.org

Subject: draft agreement

Jeremy and Jesse--Thanks again for the call. As I said to Jeremy yesterday afternoon, I don't think we're quite at the point where redlining the draft makes sense. But here is a summary of the points I made on the call yesterday.

Of course, this is intended as a confidential settlement communication. This is just a summary of my initial

DOJ-17-0239-A-000026

reactions. And I have not yet run your draft past my clients. With those caveats:

(b) (4)



Jeremy mentioned the possibility of a call on Monday. Please let me know when you'd be able to do that. My schedule is harder later in the week, so I'd like to be sure we connect on Monday.

Thanks very much,

Mark

Eric Rassbach

From: Eric Rassbach
Sent: Thursday, July 20, 2017 3:26 PM
To: Bylund, Jeremy (OASG); Lori Windham; Mark
Cc: Panuccio, Jesse (OASG)
Subject: Re: draft agreement

Thanks!

From: Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov>
Sent: Thursday, July 20, 2017 3:12 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Panuccio, Jesse (OASG)
Subject: RE: draft agreement

Here is a word version.

From: Eric Rassbach [mailto:erassbach@becketlaw.org]
Sent: Thursday, July 20, 2017 2:54 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Lori Windham <lwindham@becketlaw.org>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Subject: Re: draft agreement

Jeremy --

Could we possibly get a Word version of this?

Thanks,

Eric

From: Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov>
Sent: Thursday, July 20, 2017 2:06 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Panuccio, Jesse (OASG)
Subject: RE: draft agreement

Here is our proposed draft.

From: Eric Rassbach [mailto:erassbach@becketlaw.org]
Sent: Thursday, July 20, 2017 1:36 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Lori Windham <lwindham@becketlaw.org>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>

Subject: Re: draft agreement

Jeremy --

I don't think it makes sense for us to be on a call before we have the draft you are preparing. It also would not make sense to have the call shortly after we get the draft since we will need a reasonable amount of time to look at it and discuss it amongst ourselves before responding to you.

Also, is Rachel Brand going to participate in the call? I think it would make sense for her to be involved, since as I understand it she is now primarily responsible for bringing this litigation to a conclusion.

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To: Lori Windham; Mark

Cc: Panuccio, Jesse (OASG); Eric Rassbach

Subject: RE: draft agreement

We have a call with Jones Day at 5:30. It would be convenient for us if we all spoke together. I asked Jones Day if we could do a joint call.

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To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Mark <rienzi@law.edu>

Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>

Subject: RE: draft agreement

Jeremy,

Eric and I have some time for a call after 2 pm.

Best,

Lori

Lori Windham

Senior Counsel

Becket — Religious Liberty for All
1200 New Hampshire Ave. NW, Suite 700
Washington, DC 20036

(b) (6)  @becketlaw

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Dear Mark, Eric, and Lori,

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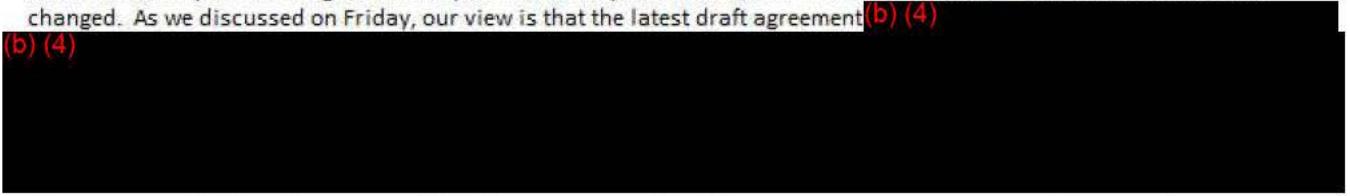
Thanks,

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Also, Erin Murphy let us know you called today. Erin certainly still represents our Supreme Court clients in these cases. But as a practical matter, it will be better and faster if you communicate directly with me or someone else at Becket to discuss settlement. The discussions with clients, as well as the representation of the many entities that are in the lower courts, are all happening with us at this stage. Going directly to us will save time in wrapping this up.

I will be difficult to reach tomorrow, but you can reach Eric Rassbach at (b) (6) or Lori Windham at (b) (6)
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Thanks very much,

Mark

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Given travel schedules the call will not be today. What are other options for you?

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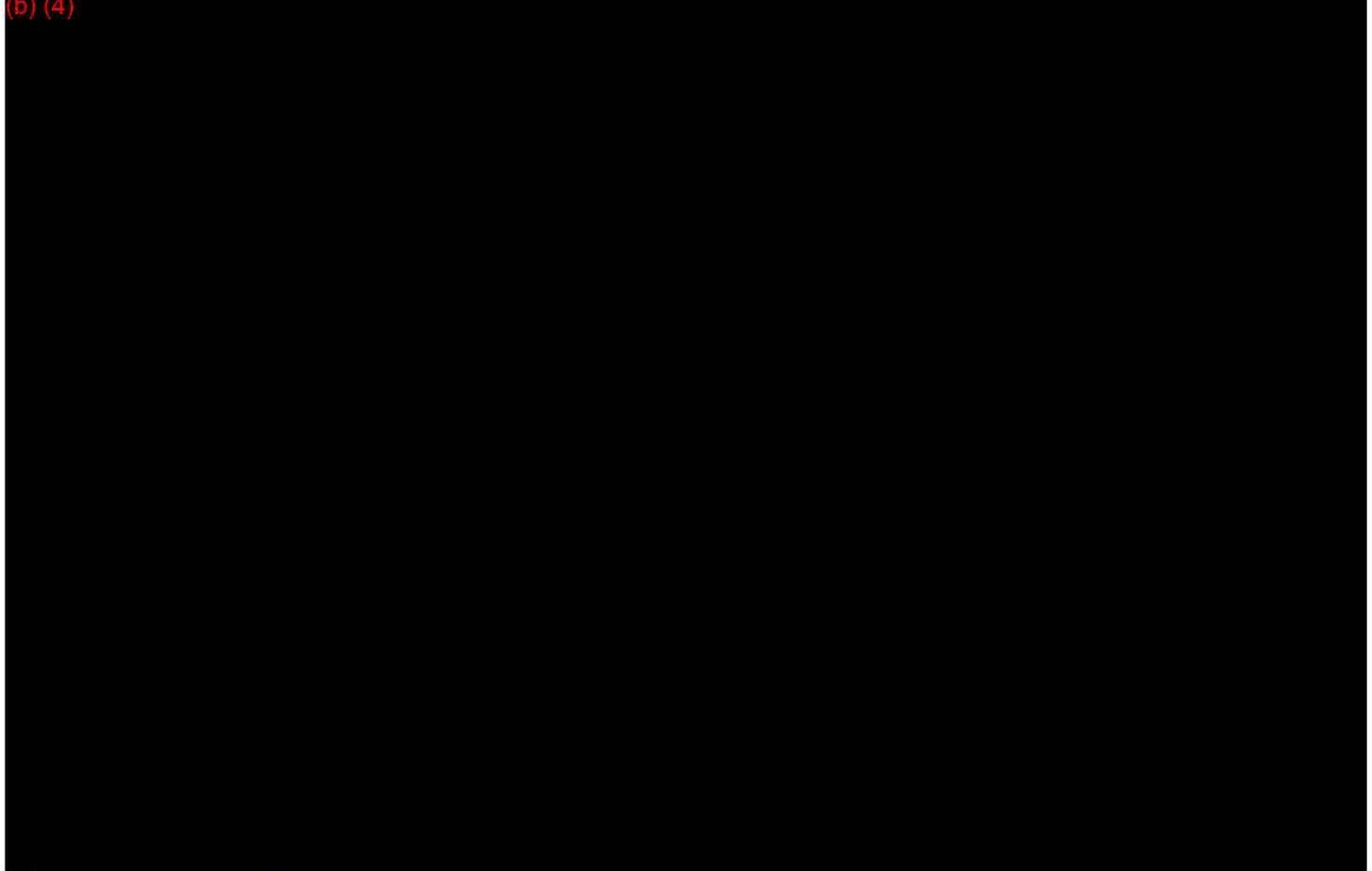
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Subject: draft agreement

Jeremy and Jesse--Thanks again for the call. As I said to Jeremy yesterday afternoon, I don't think we're quite at the point where redlining the draft makes sense. But here is a summary of the points I made on the call yesterday.

Of course, this is intended as a confidential settlement communication. This is just a summary of my initial reactions. And I have not yet run your draft past my clients. With those caveats:

(b) (4)



Jeremy mentioned the possibility of a call on Monday. Please let me know when you'd be able to do that. My schedule is harder later in the week, so I'd like to be sure we connect on Monday.

Thanks very much,

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Panuccio, Jesse (OASG)

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Sent: Thursday, July 20, 2017 2:50 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Bylund, Jeremy (OASG)
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Sent: Thursday, July 20, 2017 1:47 PM
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DOJ-17-0239-A-000033

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Lori Windham
Senior Counsel

senior counsel

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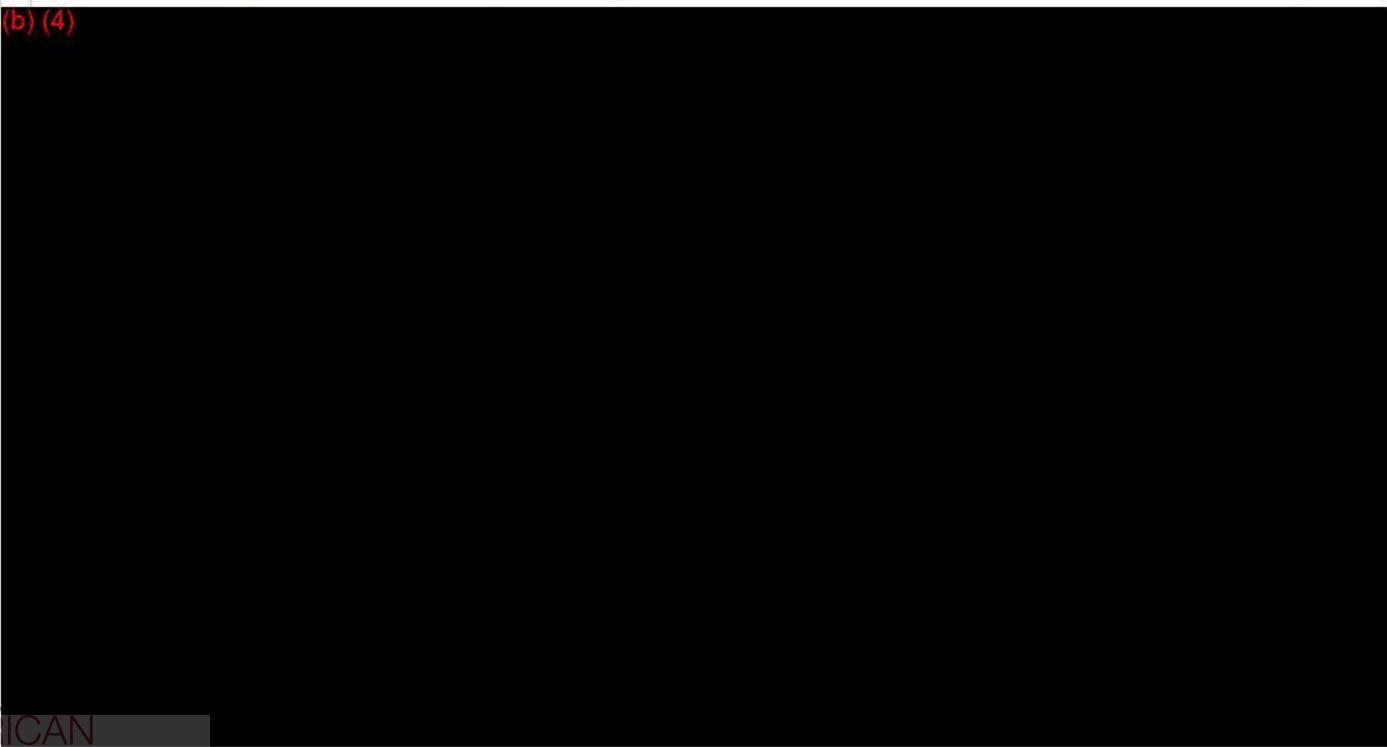
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Subject: draft agreement

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(b) (4)



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Bylund, Jeremy (OASG)

From: Bylund, Jeremy (OASG)
Sent: Thursday, July 20, 2017 2:07 PM
To: Eric Rassbach; Lori Windham; Mark
Cc: Panuccio, Jesse (OASG)
Subject: RE: draft agreement
Attachments: Confidential - DOJ Draft Settlement Agreement 7.20.pdf

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Sent: Thursday, July 20, 2017 1:36 PM
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Thanks,

Eric

From: Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov>
Sent: Thursday, July 20, 2017 1:16 PM
To: Lori Windham; Mark
Cc: Panuccio, Jesse (OASG); Eric Rassbach
Subject: RE: draft agreement

We have a call with Jones Day at 5:30. It would be convenient for us if we all spoke together. I asked Jones Day if we could do a joint call.

From: Lori Windham [mailto:lwindham@becketlaw.org]
Sent: Thursday, July 20, 2017 10:08 AM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>
Subject: RE: draft agreement

Jeremy,

Eric and I have some time for a call after 2 pm.

Best,
Lori

Lori Windham
Senior Counsel
Becket — Religious Liberty for All
1200 New Hampshire Ave. NW, Suite 700
Washington, DC 20036
(b) (6) | @becketlaw

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From: Bylund, Jeremy (OASG) [<mailto:Jeremy.Bylund@usdoj.gov>]
Sent: Thursday, July 20, 2017 6:38 AM
To: Mark <rienzi@law.edu>
Cc: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>; Lori Windham <lwindham@becketlaw.org>
Subject: RE: draft agreement

Dear Mark, Eric, and Lori,

We are hoping to have a draft to pass back to the group today. I know Mark may be out of pocket today, but are other folks available for a call this afternoon?

Thanks,

Jeremy

From: Mark L Rienzi [<mailto:rienzi@law.edu>]
Sent: Wednesday, July 19, 2017 10:41 PM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>; lwindham@becketfund.org
Subject: Re: draft agreement

Jesse and Jeremy—I'm writing to follow up to see where you all are on our list of items on the last draft that need to be changed. As we discussed on Friday, our view is that the latest draft agreement (b) (4)

(b) (4)

Also, Erin Murphy let us know you called today. Erin certainly still represents our Supreme Court clients in these cases. But as a practical matter, it will be better and faster if you communicate directly with me or someone else at Becket to discuss settlement. The discussions with clients, as well as the representation of the many entities that are in the lower courts, are all

D happening with us at this stage. Going directly to us will save time in wrapping this up.

I will be difficult to reach tomorrow, but you can reach Eric Rassbach at (b) (6) or Lori Windham at (b) (6)

Thanks very much,

Mark

On Mon, Jul 17, 2017 at 3:37 PM, Mark L Rienzi <rienzi@law.edu> wrote:

Jeremy--I think the best thing to do then is for you all to send over a revised draft that addresses the issues we've flagged. We got the Tenth Circuit to give us an extra week, and they seem to be holding off in the other cases waiting on our report. So I don't expect us to be able (or willing) to kick the can down the road further. Right now, we're still too far apart for that update to the court to be positive. So I would rather keep things moving forward with a new draft than wait for a time when our schedules match.

(b) (4)

Thanks very much,

Mark

On Mon, Jul 17, 2017 at 9:55 AM, Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov> wrote:

Dear Mark,

Given travel schedules the call will not be today. What are other options for you?

Best,

Jeremy

From: Mark L Rienzi [mailto:rienzi@law.edu]

Sent: Saturday, July 15, 2017 10:59 PM

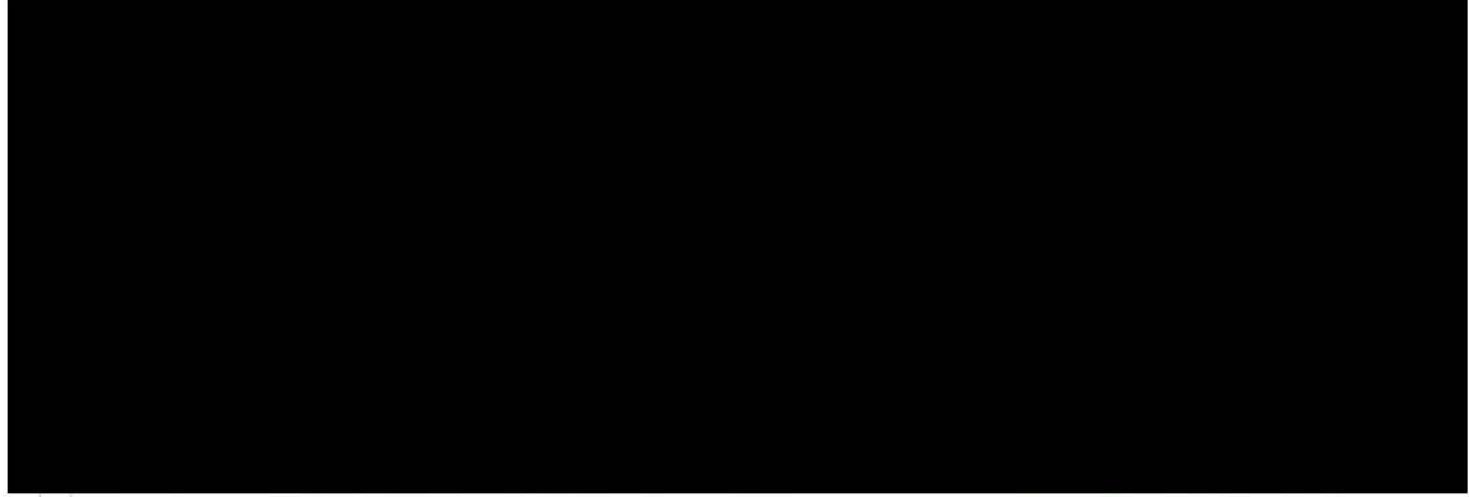
To: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>; Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>; Eric Rassbach <erassbach@becketlaw.org>; lwindham@becketfund.org
Subject: draft agreement

Jeremy and Jesse--Thanks again for the call. As I said to Jeremy yesterday afternoon, I don't think we're quite at the point where redlining the draft makes sense. But here is a summary of the points I made on the call yesterday.

Of course, this is intended as a confidential settlement communication. This is just a summary of my initial reactions. And I have not yet run your draft past my clients. With those caveats:

(b) (4)

(b) (4)



Jeremy mentioned the possibility of a call on Monday. Please let me know when you'd be able to do that. My schedule is harder later in the week, so I'd like to be sure we connect on Monday.

Thanks very much,

Mark

Panuccio, Jesse (OASG)

From: Panuccio, Jesse (OASG)
Sent: Friday, July 14, 2017 11:54 AM
To: rienzi@law.edu; erassbach@becketlaw.org; lwindham@becketfund.org; Bylund, Jeremy (OASG)
Subject: Conference Call

OASG Conference Call:
Dial In: (b) (6) Code: (b) (6)

Meeting Participants:

Jesse Panuccio
Jeremy Bylund
rienzi@law.edu
erassbach@becketlaw.org
lwindham@becketfund.org

POC:

Yolanda K. Carey
Yolanda.Carey@USDOJ.GOV
Office: 202.514.9500

Panuccio, Jesse (OASG)

Subject: Conference Call
Location: Dial In: (b) (6) Code: (b) (6)

Start: Friday, July 14, 2017 1:30 PM
End: Friday, July 14, 2017 2:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Panuccio, Jesse (OASG)
Required Attendees: rienzi@law.edu; erassbach@becketlaw.org; lwindham@becketfund.org; Jeremy.Bylund@usdoj.gov
Optional Attendees: Lori Windham

OASG Conference Call: (b) (6)
Dial In: (b) (6) Code: (b) (6)

Meeting Participants:

Jesse Panuccio
Jeremy Bylund
rienzi@law.edu
erassbach@becketlaw.org
lwindham@becketfund.org

POC:

Yolanda K. Carey
Yolanda.Carey@USDOJ.GOV
Office: 202.514.9500

Panuccio, Jesse (OASG)

From: Panuccio, Jesse (OASG)
Sent: Friday, July 14, 2017 11:45 AM
To: Mark L Rienzi
Cc: Eric Rassbach; lwindham@becketfund.org; Bylund, Jeremy (OASG)
Subject: Re: Confidential Settlement Discussion

Many thanks. My assistant will circulate a dial in.

On Jul 14, 2017, at 11:29 AM, Mark L Rienzi <rienzi@law.edu> wrote:

Yes-we can make 1:30 work. Let me know where we should call. Thanks very much.

On Fri, Jul 14, 2017 at 11:20 AM, Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov> wrote:

Any chance you could do 1:30? I have something from noon to 1:30 that would be very hard for me to walk out of.

From: Mark L Rienzi [mailto:rienzi@law.edu]
Sent: Friday, July 14, 2017 11:18 AM
To: Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov>
Cc: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Subject: Re: Confidential Settlement Discussion

Would 12:45 work? I do want to talk about the draft and our filing today if possible.

On Fri, Jul 14, 2017 at 11:10 AM, Panuccio, Jesse (OASG) <Jesse.Panuccio@usdoj.gov> wrote:

Hi Mark,

Thanks for reaching out. Unfortunately, I have a solid block of meetings from 2pm until 5:30 or so. I could speak this evening, but if you need to talk earlier—especially about the filing today—I believe Jeremy can make something work this afternoon.

Best,

Jesse

From: Mark L Rienzi [mailto:rienzi@law.edu]
Sent: Friday, July 14, 2017 9:26 AM
To: Bylund, Jeremy (OASG) <jbylund@jmd.usdoj.gov>
Cc: Panuccio, Jesse (OASG) <jpanuccio@jmd.usdoj.gov>
Subject: Re: Confidential Settlement Discussion

Can we have a discussion at 3? Unfortunately, I'm in non-stop meeting until then.

On Thu, Jul 13, 2017 at 8:58 PM, Bylund, Jeremy (OASG) <Jeremy.Bylund@usdoj.gov> wrote:

Dear Mark,

Attached, please find the draft settlement agreement discussed in your call with Jesse today.

Best,

Jeremy M. Bylund

Deputy Associate Attorney General

U.S. Department of Justice

[\(202\) 514-0123](tel:(202)514-0123)